

AMENDED IN ASSEMBLY JULY 6, 2003

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 114

Introduced by Senator Torlakson

*(Coauthors: Assembly Members Corbett, Goldberg, Leno, and
Steinberg)*

February 3, 2003

An act to amend Section 53084 of the Government Code, and to amend Section 33426.7 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 114, as amended, Torlakson. Financial assistance: relocation of vehicle dealers and big box retailers.

Existing law, until January 1, 2005, permits a redevelopment agency or a local agency, as defined, from providing any form of financial assistance to an automobile dealership or big box retailer, or a business entity that sells or leases land to an automobile dealership or big box retailer, that is relocating from the territorial jurisdiction of one community or local agency, to the territorial jurisdiction of another community or local agency, but within the same market area only if the receiving community or local agency offers the other community or local agency a contract that apportions sales tax generated by the dealership or retailer between the 2 communities or local agency, as specified, and the agency holds a public hearing and adopts a resolution making specified findings relating to whether or not a contract has been approved.

Existing law also requires the California Research Bureau to report to the Governor and the Legislature on or before January 1, 2004, regarding the implementation of these provisions.

This bill would extend indefinitely these prohibitions, but would change the term “automobile dealership” to “vehicle dealer” and eliminate the authority of a redevelopment agency or local agency to provide any form of financial assistance to a vehicle dealer or big box retailer that is relocating from the territorial jurisdiction of one community to the territorial jurisdiction of another community but within the same market area.

This bill would also delete the requirement that the California Research Bureau report to the Governor and the Legislature on or before January 1, 2004, regarding the implementation of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53084 of the Government Code is
2 amended to read:

3 53084. (a) Notwithstanding any other provision of this part,
4 a local agency shall not provide any form of financial assistance
5 to a vehicle dealer or big box retailer, or a business entity that sells
6 or leases land to a vehicle dealer or big box retailer, that is
7 relocating from the territorial jurisdiction of one local agency to
8 the territorial jurisdiction of another local agency but within the
9 same market area.

10 (b) As used in this section:

11 (1) “Big box retailer” means a store of greater than 75,000
12 square feet of gross buildable area that will generate sales or use
13 tax pursuant to the Bradley-Burns Uniform Local Sales and Use
14 Tax Law, Part Law (Part 1.5 (commencing with Section 7200) of
15 Division 2 of the Revenue and Taxation Code Code).

16 (2) “Local agency” means a chartered or general law city, a
17 chartered or general law county, or a city and county. “Local
18 agency” does not include a redevelopment agency that is subject
19 to Section 33426.7 of the Health and Safety Code.

20 (3) “Financial assistance” includes, but is not limited to, any
21 of the following:

1 (A) Any appropriation of public funds, including loans, grants,
2 or subsidies or the payment for or construction of parking
3 improvements.

4 (B) Any tax incentive, including tax exemptions, rebates,
5 reductions, or moratoria of a tax, including any rebate or payment
6 based upon the amount of sales tax generated from the vehicle
7 dealer or big box retailer.

8 (C) The sale or lease of real property at a cost that is less than
9 fair market value.

10 (D) Payment for, forgiveness of, or reduction of fees.

11 (4) (A) “Market area” means a geographical area that is
12 described in independent and recognized commercial trade
13 literature, recognized and established business or manufacturing
14 policies or practices, or publications of recognized independent
15 research organizations as being an area that is large enough to
16 support the location of the specific vehicle dealer or the specific
17 big box retailer that is relocating.

18 (B) With respect to a vehicle dealer, a “market area” shall not
19 extend further than 40 miles, as measured by the most reasonable
20 route on roads between two points, starting from the location from
21 which the vehicle dealer is relocating and ending at the location to
22 which the vehicle dealer is relocating.

23 (C) With respect to a big box retailer, a “market area” shall not
24 extend further than 25 miles, as measured by the most reasonable
25 route on roads between two points, starting from the location from
26 which the big box retailer is relocating and ending at the location
27 to which the big box retailer is relocating.

28 (5) “Relocating” means the closing of a vehicle dealer or big
29 box retailer in one location and the opening of a vehicle dealer or
30 big box retailer in another location within a 365-day period when
31 a person or business entity has an ownership interest in both the
32 vehicle dealer or big box retailer that has closed or will close and
33 the one that is opening. “Relocating” does not mean and shall not
34 include the closing of a vehicle dealer or big box retailer because
35 the vehicle dealer or big box retailer has been or will be acquired
36 or has been or will be closed as a result of the use of eminent
37 domain.

38 (6) “Vehicle dealer” means a retailer that is also a dealer as
39 defined by Section 285 of the Vehicle Code.

(c) This section does not apply to local agency assistance in the construction of public improvements that serve all or a portion of the jurisdiction of the local agency and that are not required to be constructed as a condition of approval of the vehicle dealer or big box retailer. This section also does not prohibit assistance in the construction of public improvements that are being constructed for a development other than the vehicle dealer or big box retailer.

(d) This section shall not apply to any financial assistance provided by a local agency pursuant to a lease, contract, agreement, or other enforceable written instrument entered into between the local agency and a vehicle dealer, big box retailer, or a business entity that sells or leases land to a vehicle dealer or big box retailer, if the lease, contract, agreement, or other enforceable written instrument was entered into prior to December 31, 1999.

SEC. 2. Section 33426.7 of the Health and Safety Code is amended to read:

33426.7. (a) Notwithstanding any other provision of this part, a redevelopment agency shall not provide any form of financial assistance to a vehicle dealer or big box retailer, or a business entity that sells or leases land to a vehicle dealer or big box retailer, that is relocating from the territorial jurisdiction of one community to the territorial jurisdiction of another community but within the same market area.

(b) As used in this section:

(1) “Big box retailer” means a store of greater than 75,000 square feet of gross buildable area that will generate sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, ~~Part Law~~ (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code Code).

(2) “Community” and “territorial jurisdiction” have the meanings specified in Sections 33002 and 33120, respectively.

(3) “Financial assistance” includes, but is not limited to, any of the following:

(A) Any appropriation of public funds, including loans, grants, or subsidies or the payment for or construction of parking improvements.

(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment based upon the amount of sales tax generated from the vehicle dealer or big box retailer.

1 (C) The sale or lease of real property at a cost that is less than
2 fair market value.

3 (D) Payment for, forgiveness of, or reduction of fees.

4 (4) (A) “Market area” means a geographical area that is
5 described in independent and recognized commercial trade
6 literature, recognized and established business or manufacturing
7 policies or practices, or publications of recognized independent
8 research organizations as being an area that is large enough to
9 support the location of the specific vehicle dealer or the specific
10 big box retailer that is relocating.

11 (B) With respect to a vehicle dealer, a “market area” shall not
12 extend further than 40 miles, as measured by the most reasonable
13 route on roads between two points, starting from the location from
14 which the vehicle dealer is relocating and ending at the location to
15 which the vehicle dealer is relocating.

16 (C) With respect to a big box retailer, a “market area” shall not
17 extend further than 25 miles, as measured by the most reasonable
18 route on roads between two points, starting from the location from
19 which the big box retailer is relocating and ending at the location
20 to which the big box retailer is relocating.

21 (5) “Relocating” means the closing of a vehicle dealer or big
22 box retailer in one location and the opening of a vehicle dealer or
23 big box retailer in another location within a 365-day period when
24 a person or business entity has an ownership interest in both the
25 vehicle dealer or big box retailer that has closed or will close and
26 the one that is opening. “Relocating” does not mean and shall not
27 include the closing of a vehicle dealer or big box retailer because
28 the vehicle dealer or big box retailer has been or will be acquired
29 or has been or will be closed as a result of the use of eminent
30 domain.

31 (6) “Vehicle dealer” means a retailer that is also a dealer as
32 defined by Section 285 of the Vehicle Code.

33 (c) This section does not apply to agency assistance in the
34 construction of public improvements that serve all or a portion of
35 a project area and that are not required to be constructed as a
36 condition of approval of the vehicle dealer or big box retailer. This
37 section also does not prohibit assistance in the construction of
38 public improvements that are being constructed for a development
39 other than the vehicle dealer or big box retailer.

1 (d) This section shall not apply to any financial assistance
2 provided by a redevelopment agency pursuant to a lease, contract,
3 agreement, or other enforceable written instrument entered into
4 between the redevelopment agency and a vehicle dealer, big box
5 retailer, or a business entity that sells or leases land to a vehicle
6 dealer or big box retailer, if the lease, contract, agreement, or other
7 enforceable written instrument was entered into prior to December
8 31, 1999.

9 SEC. 3. The Legislature finds and declares that in enacting
10 this act to add paragraph (6) to subdivision (b) of Section 53084
11 of the Government Code, and to add paragraph (6) to subdivision
12 (b) of Section 33426.7 of the Health and Safety Code, it is the
13 intent of the Legislature to clarify the intended use of the term
14 “automobile dealership” as contained in Chapter 462 of the
15 Statutes of 1999, and that the addition of those provisions does not
16 constitute a change in, but is declaratory of, existing law.

17 SEC. 4. Nothing in this act shall impair or in any way affect
18 a contract containing the terms specified in either subdivision (c)
19 of Section 53084 of the Government Code or subdivision (c) of
20 Section 33426.7 of the Health and Safety Code as those provisions
21 read before the effective date of this act.

